

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE	)	
REASONABLENESS OF THE EXISTING RATES	)	CASE NO. 2008-00369
OF DELAPLAIN DISPOSAL COMPANY	)	

ORDER

Delaplain Disposal Company ("Delaplain"), a Kentucky corporation, owns and operates facilities that are used in the collection, transmission and treatment of sewage for the public for compensation in Scott County, Kentucky, and is therefore a utility subject to Commission jurisdiction.<sup>1</sup>

KRS 278.030(1) provides that "[e]very utility may demand, collect and receive fair, just and reasonable rates for the services rendered or to be rendered by it to any person."

KRS 278.260(1) provides that the Commission may investigate the rates of any utility to determine if such rates are "unreasonable or unjustly discriminatory."

On December 31, 2007, Delaplain entered into an agreement with the Attorney General of the Commonwealth of Kentucky ("AG") to adjust its rates to produce approximately \$150,000 less in annual revenues.<sup>2</sup> The parties to this Agreement subsequently agreed to rates that they assert are sufficient to effect the reduction in

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<sup>1</sup> KRS 278.010(3)(f); KRS 278.040.

<sup>2</sup> See Appendix A.

revenues.<sup>3</sup> The AG subsequently submitted this Agreement to the Commission, but made no formal complaint to implement the Agreement's terms.

Finding that *prima facie* evidence exists that Delaplain's existing rates are unreasonable and should be adjusted, the Commission, on its own motion, HEREBY ORDERS that:

1. An investigation into the reasonableness of Delaplain's existing rates is commenced.

2. Delaplain shall appear before the Commission on October 3, 2008 at 10:00 a.m., Eastern Daylight Time, at the Commission's offices at 211 Sower Boulevard, for the purpose of showing cause why its present rates are unreasonable and should not be adjusted to the rates set forth in Appendix B of this Order.

3. Delaplain may waive its rights to a hearing in this matter and any objection to the adjustment of its rates to the levels set forth in Appendix B by submitting to the Commission a written waiver of such rights within 10 days of the date of this Order. Should Delaplain submit, and the Commission accept, such waiver, the Commission will proceed to enter such Orders as are necessary to implement rates set forth in Appendix B and any other appropriate provisions of the Agreement set forth in Appendix A of this Order.

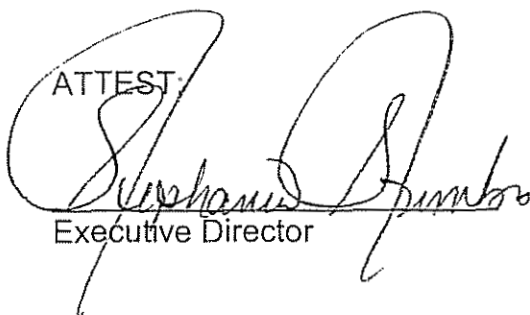
4. Should Delaplain fail to waive its right to a hearing and to appear at the scheduled hearing in this matter, the Commission may upon considering all evidence presented order rates that differ from those set forth in Appendix B.

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<sup>3</sup> See Appendix B.

Done at Frankfort, Kentucky, this 11th day of September, 2008.

By the Commission

ATTEST:  
  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2008-00369 DATED SEPTEMBER 11, 2008

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ALTERNATIVE RATE APPLICATION OF  
DELAPLAIN DISPOSAL COMPANY, INC.

JOINT SETTLEMENT STIPULATION AND RECOMMENDATION

It is the intent and purpose of Delaplain Disposal Company, Inc. (hereinafter "Delaplain" or "the company") to this proceeding and the Attorney General of the Commonwealth of Kentucky (hereinafter "Attorney General") to express their agreement on a mutually satisfactory resolution of all of the issues in the instant proceeding which shall hereafter be referred to as the "Stipulation" and/or "Recommendation".

It is understood by all parties hereto that this Recommendation is not binding upon the Public Service Commission ("Commission"), nor does it represent agreement on any specific theory supporting the appropriateness of any recommended adjustments to Delaplain's rates. The parties have expended efforts to reach the stipulation and agreements that form the basis for this Recommendation. The parties, representing diverse interests and divergent viewpoints, agree that this Recommendation, viewed in its entirety, constitutes a reasonable resolution of all issues in this proceeding.

In addition, the adoption of this Recommendation will eliminate the need for the Commission and the parties to expend significant resources in litigation of this proceeding, and eliminate the possibility of, and any need for, rehearing or appeals of the Commission's final order herein. Based upon the parties' participation in a settlement conference and the materials

on file with the Commission as well as with the Attorney General, and upon the belief that these materials adequately support this Stipulation and Recommendation, the parties hereby stipulate and recommend the following:

1. Delaplain requested the Commission to prepare an alternative rate filing application (ARF) on or about March 3, 2005.

2. On or about March 22, 2007, Commission staff completed its ARF pursuant to 807 KAR 5:076, and concluded that Delaplain should reduce its rates by \$215,951.

3. On or about May 7, 2007, Delaplain forwarded a letter to the Commission wherein the company requested withdrawal for rate change consideration.

4. After receiving a copy of the ARF on or about August 29, 2007, the Attorney General forwarded inquiries to Delaplain in order to explore possible over-earnings by the company.

5. Delaplain responded to the Attorney General's initial inquiries and subsequently met with the Attorney General on or about October 24, 2007, in an attempt to resolve any concerns that the Attorney General had expressed.

6. Additional inquiries were forwarded to Delaplain on or about November 8, 2007.

7. Notwithstanding the company's responses, the Attorney General continued to have concerns that the company was over-earning.

8. Without admitting any over-earning, Delaplain has agreed to reduce its rates by \$150,000 as noted herein.

9. Delaplain therefore voluntarily agrees to reduce its rates by \$150,000 with such rates to be effective as of January 1, 2008. The exhibits attached hereto reflect the stipulated reduction.

10. Delaplain will request the Commission to order the rate reduction as soon as possible so as to afford rate relief to the company's customers as expeditiously as manageable.

11. In addition, the company will immediately thereafter file a new ARF with the Commission and will actively participate in the preparation of same.

12. Once the processing of the new ARF is completed and Commission staff issues its findings, Delaplain will adhere to said findings and will either increase or decrease the rates as provided in the instant agreement, and as set forth in the schedule attached hereto.

13. Accordingly, the parties hereto urge the Commission to approve and adopt the proposed tariff revisions attached hereto, in order to provide rate relief as soon as possible to Delaplain's customers.

14. In the event there is hearing in this matter, each party hereto agrees to waive all cross-examination of witnesses of the other parties hereto unless the Commission disapproves this Recommendation, and each party further stipulates and recommends that the any future Notice of Intent, any future Notice of Application, any future testimony, any future pleadings and any future responses to data requests filed in this proceeding be admitted into the record.

15. This Recommendation is submitted for purposes of this case only and is not deemed binding upon the parties hereto in any other proceeding, nor is it to be offered or relied upon in any other proceeding involving Delaplain or any other utility.

16. If the Commission issues an order adopting this Recommendation in its entirety, each of the parties hereto agrees that it shall file neither an application for rehearing with the Commission, nor an appeal to the Franklin County Circuit Court with respect to such order.

17. If this Recommendation is not adopted in its entirety, each party reserves the right to withdraw from it and require that hearings go forward upon any or all matters involved herein,

and that in such event the terms of this Recommendation shall not be deemed binding upon the parties hereto, nor shall such Recommendation be admitted into evidence, or referred to, or relied upon in any manner by any party hereto, the Commission, or its Staff in any such hearing.

18. The parties hereto agree that the foregoing Recommendation is reasonable and in the best interests of all concerned, and urge the Commission to adopt the Recommendation in its entirety as soon as possible in order to afford rate relief for Delaplain's customers.

AGREED: this 31 day of December, 2007.

Delaplain Disposal Company, Inc.

BY: Elbert C. Ray  
Elbert C. Ray, President

KENTUCKY ATTORNEY GENERAL

BY: Dennis G. Howard, II  
Paul D. Adams  
Lawrence W. Cook  
Assistant Attorneys General  
Office of Rate Intervention  
Office of Attorney General  
Commonwealth of Kentucky



APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2008-00369 DATED SEPTEMBER 11, 2008

**DELAPLAIN DISPOSAL COMPANY, INC.**

P. O. Box 4382  
Lexington, Kentucky 40544-4382  
859.223.0425 phone  
859.223.0459 fax

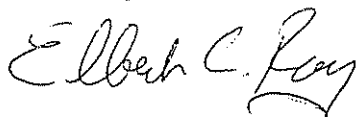
JAN 17 2008

January 16, 2008

Dennis G. Howard II, Esq.  
Paul D. Adams, Esq.  
Office of Rate Intervention  
1024 Capital Drive, Suite 200  
Frankfort, Kentucky 40601-8204

Enclosed is Delaplain Disposal Company's proposed rate reduction as requested in item 9 of the Joint Settlement Stipulation and Recommendation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elbert C. Ray".

Elbert C. Ray, P.E.

enclosure

**Delaplain Disposal  
Proposed Rate Reductions  
Effective 2/1/08**

	2007	Reduction	2008	Proposed Rates
<i>Assuming a Proportionate Reduction based on Usage-Assuming 200 Gallons per day residential:</i>				
Residential Class (200 gallons per day times 365 days times 228 customers reflects annual usage of 16,644,000)	71280	41923	29,357	10.73
Commercial Class 42,908,069 gallons treated	435517	108077	327,440	7.63
Total 59,552,069 gallons treated	506,797	150,000	356,797	